
HOUSE BILL No. 1400

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-1.1-12; IC 6-1.1-20.9-3.

Synopsis: Filing date for property tax benefits. Permits, with respect to the homestead credit and individual property tax deductions: (1) an individual who failed to file a timely application in 2004 to file the application before July 1, 2005, and applies the benefit as a tax credit or refund in 2005; and (2) filing of the application before the first installment due date, if taxes are due in installments established by the department of local government finance.

Effective: Upon passage.

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January 13, 2005, read first time and referred to Committee on Ways and Means.

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First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

HOUSE BILL No. 1400

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 6-1.1-12-2 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) Except as
3 provided in section 17.8 of this chapter, a person who desires to claim
4 the deduction provided by section 1 of this chapter must file a
5 statement in duplicate, on forms prescribed by the department of local
6 government finance, with the auditor of the county in which the real
7 property, mobile home not assessed as real property, or manufactured
8 home not assessed as real property is located. With respect to real
9 property, the statement must be filed ~~during the twelve (12) months~~
10 **after May 10 of the year that immediately precedes a year for**
11 **which the person wishes to obtain the deduction and before the**
12 **later of:**
13 (1) May 11 of ~~each~~ a year:
14 (A) for which the person wishes to obtain the deduction; and
15 (B) **in which the taxes are due and payable under**
16 **IC 6-1.1-22-9; or**
17 (2) the date in the year referred to in subdivision (1) on which



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**the first installment of taxes is due and payable under
IC 6-1.1-22-9.5.**

With respect to a mobile home that is not assessed as real property or a manufactured home that is not assessed as real property, the statement must be filed during the twelve (12) months before March 2 of each year for which the individual wishes to obtain the deduction. The statement may be filed in person or by mail. If mailed, the mailing must be postmarked on or before the last day for filing. In addition to the statement required by this subsection, a contract buyer who desires to claim the deduction must submit a copy of the recorded contract or recorded memorandum of the contract, which must contain a legal description sufficient to meet the requirements of IC 6-1.1-5, with the first statement that the buyer files under this section with respect to a particular parcel of real property. Upon receipt of the statement and the recorded contract or recorded memorandum of the contract, the county auditor shall assign a separate description and identification number to the parcel of real property being sold under the contract.

(b) The statement referred to in subsection (a) must be verified under penalties for perjury, and the statement must contain the following information:

- (1) The balance of the person's mortgage or contract indebtedness on the assessment date of the year for which the deduction is claimed.
- (2) The assessed value of the real property, mobile home, or manufactured home.
- (3) The full name and complete residence address of the person and of the mortgagee or contract seller.
- (4) The name and residence of any assignee or bona fide owner or holder of the mortgage or contract, if known, and if not known, the person shall state that fact.
- (5) The record number and page where the mortgage, contract, or memorandum of the contract is recorded.
- (6) A brief description of the real property, mobile home, or manufactured home which is encumbered by the mortgage or sold under the contract.
- (7) If the person is not the sole legal or equitable owner of the real property, mobile home, or manufactured home, the exact share of the person's interest in it.
- (8) The name of any other county in which the person has applied for a deduction under this section and the amount of deduction claimed in that application.

(c) The authority for signing a deduction application filed under this

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section may not be delegated by the real property, mobile home, or manufactured home owner or contract buyer to any person except upon an executed power of attorney. The power of attorney may be contained in the recorded mortgage, contract, or memorandum of the contract, or in a separate instrument.

SECTION 2. IC 6-1.1-12-10.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10.1. (a) Except as provided in section 17.8 of this chapter, an individual who desires to claim the deduction provided by section 9 of this chapter must file a sworn statement, on forms prescribed by the department of local government finance, with the auditor of the county in which the real property, mobile home, or manufactured home is located. With respect to real property, the statement must be filed ~~during the twelve (12) months after May 10 of the year that immediately precedes a year for which the individual wishes to obtain the deduction and before the later of:~~

(1) May 11 of ~~each~~ a year:

(A) for which the individual wishes to obtain the deduction; and

(B) in which the taxes are due and payable under IC 6-1.1-22-9; or

(2) the date in the year referred to in subdivision (1) on which the first installment of taxes is due and payable under IC 6-1.1-22-9.5.

With respect to a mobile home that is not assessed as real property or a manufactured home that is not assessed as real property, the statement must be filed between January 15 and March 31, inclusive of each year for which the individual wishes to obtain the deduction. The statement may be filed in person or by mail. If mailed, the mailing must be postmarked on or before the last day for filing.

(b) The statement referred to in subsection (a) shall be in affidavit form or require verification under penalties of perjury. The statement must be filed in duplicate if the applicant owns, or is buying under a contract, real property, a mobile home, or a manufactured home subject to assessment in more than one (1) county or in more than one (1) taxing district in the same county. The statement shall contain:

(1) the source and exact amount of gross income received by the individual and ~~his~~ the individual's spouse during the preceding calendar year;

(2) the description and assessed value of the real property, mobile home, or manufactured home;

(3) the individual's full name and ~~his~~ the individual's complete

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residence address;

(4) the record number and page where the contract or memorandum of the contract is recorded if the individual is buying the real property, mobile home, or manufactured home on contract; and

(5) any additional information which the department of local government finance may require.

(c) In order to substantiate ~~his~~ **the** deduction statement, the applicant shall submit for inspection by the county auditor a copy of ~~his~~ **the applicant's** and a copy of ~~his~~ **the applicant's** spouse's income tax returns for the preceding calendar year. If either was not required to file an income tax return, the applicant shall subscribe to that fact in the deduction statement.

SECTION 3. IC 6-1.1-12-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. (a) Except as provided in section 17.8 of this chapter, a person who desires to claim the deduction provided in section 11 of this chapter must file an application, on forms prescribed by the department of local government finance, with the auditor of the county in which the real property, mobile home not assessed as real property, or manufactured home not assessed as real property is located. With respect to real property, the application must be filed ~~during the twelve (12) months after May 10 of the year that immediately precedes a year for which the individual wishes to obtain the deduction and before the later of:~~

(1) May 11 of ~~each~~ a year:

(A) for which the individual wishes to obtain the deduction; and

(B) in which the taxes are due and payable under IC 6-1.1-22-9; or

(2) the date in the year referred to in subdivision (1) on which the first installment of taxes is due and payable under IC 6-1.1-22-9.5.

With respect to a mobile home that is not assessed as real property or a manufactured home that is not assessed as real property, the application must be filed during the twelve (12) months before March 2 of each year for which the individual wishes to obtain the deduction. The application may be filed in person or by mail. If mailed, the mailing must be postmarked on or before the last day for filing.

(b) Proof of blindness may be supported by:

(1) the records of a county office of family and children, the division of family and children, or the division of disability, aging, and rehabilitative services; or

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(2) the written statement of a physician who is licensed by this state and skilled in the diseases of the eye or of a licensed optometrist.

(c) The application required by this section must contain the record number and page where the contract or memorandum of the contract is recorded if the individual is buying the real property, mobile home, or manufactured home on a contract that provides that ~~he~~ **the individual** is to pay property taxes on the real property, mobile home, or manufactured home.

SECTION 4. IC 6-1.1-12-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. (a) Except as provided in section 17.8 of this chapter, an individual who desires to claim the deduction provided by section 13 or section 14 of this chapter must file a statement with the auditor of the county in which the individual resides. With respect to real property, the statement must be filed ~~during the twelve (12) months after May 10 of the year that immediately precedes a year for which the individual wishes to obtain the deduction and before the later of:~~

(1) May 11 of ~~each~~ a year:

(A) for which the individual wishes to obtain the deduction;
and

(B) in which the taxes are due and payable under IC 6-1.1-22-9; or

(2) the date in the year referred to in subdivision (1) on which the first installment of taxes is due and payable under IC 6-1.1-22-9.5.

With respect to a mobile home that is not assessed as real property or a manufactured home that is not assessed as real property, the statement must be filed during the twelve (12) months before March 2 of each year for which the individual wishes to obtain the deduction. The statement may be filed in person or by mail. If mailed, the mailing must be postmarked on or before the last day for filing. The statement shall contain a sworn declaration that the individual is entitled to the deduction.

(b) In addition to the statement, the individual shall submit to the county auditor for the auditor's inspection:

(1) a pension certificate, an award of compensation, or a disability compensation check issued by the United States Department of Veterans Affairs if the individual claims the deduction provided by section 13 of this chapter;

(2) a pension certificate or an award of compensation issued by the United States Department of Veterans Affairs if the individual

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claims the deduction provided by section 14 of this chapter; or
 (3) the appropriate certificate of eligibility issued to the individual
 by the Indiana department of veterans' affairs if the individual
 claims the deduction provided by section 13 or 14 of this chapter.

(c) If the individual claiming the deduction is under guardianship,
 the guardian shall file the statement required by this section.

(d) If the individual claiming a deduction under section 13 or 14 of
 this chapter is buying real property, a mobile home not assessed as real
 property, or a manufactured home not assessed as real property under
 a contract that provides that the individual is to pay property taxes for
 the real estate, mobile home, or manufactured home, the statement
 required by this section must contain the record number and page
 where the contract or memorandum of the contract is recorded.

SECTION 5. IC 6-1.1-12-17 IS AMENDED TO READ AS
 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 17. Except as
 provided in section 17.8 of this chapter, a surviving spouse who desires
 to claim the deduction provided by section 16 of this chapter must file
 a statement with the auditor of the county in which the surviving
 spouse resides. With respect to real property, the statement must be
 filed ~~during the twelve (12) months after May 10 of the year that~~
immediately precedes a year for which the surviving spouse wishes
to obtain the deduction and before the later of:

(1) May 11 of ~~each~~ a year:

(A) for which the surviving spouse wishes to obtain the
 deduction; **and**

(B) **in which the taxes are due and payable under**
IC 6-1.1-22-9; or

(2) **the date in the year referred to in subdivision (1) on which**
the first installment of taxes is due and payable under
IC 6-1.1-22-9.5.

With respect to a mobile home that is not assessed as real property or
 a manufactured home that is not assessed as real property, the
 statement must be filed during the twelve (12) months before March 2
 of each year for which the individual wishes to obtain the deduction.
 The statement may be filed in person or by mail. If mailed, the mailing
 must be postmarked on or before the last day for filing. The statement
 shall contain:

(1) a sworn statement that the surviving spouse is entitled to the
 deduction; and

(2) the record number and page where the contract or
 memorandum of the contract is recorded, if the individual is
 buying the real property on a contract that provides that the

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individual is to pay property taxes on the real property.

In addition to the statement, the surviving spouse shall submit to the county auditor for the auditor's inspection a letter or certificate from the United States Department of Veterans Affairs establishing the service of the deceased spouse in the military or naval forces of the United States before November 12, 1918.

SECTION 6. IC 6-1.1-12-17.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 17.5. (a) Except as provided in section 17.8 of this chapter, a veteran who desires to claim the deduction provided in section 17.4 of this chapter must file a sworn statement, on forms prescribed by the department of local government finance, with the auditor of the county in which the real property, mobile home, or manufactured home is assessed. With respect to real property, the veteran must file the statement ~~during the twelve (12) months after May 10 of the year that immediately precedes a year for which the veteran wishes to obtain the deduction and before the later of:~~

(1) May 11 of ~~each~~ a year:

(A) for which the veteran wishes to obtain the deduction; and

(B) in which the taxes are due and payable under IC 6-1.1-22-9; or

(2) the date in the year referred to in subdivision (1) on which the first installment of taxes is due under IC 6-1.1-22-9.5.

With respect to a mobile home that is not assessed as real property or a manufactured home that is not assessed as real property, the statement must be filed during the twelve (12) months before March 2 of each year for which the individual wishes to obtain the deduction. The statement may be filed in person or by mail. If mailed, the mailing must be postmarked on or before the last day for filing.

(b) The statement required under this section shall be in affidavit form or require verification under penalties of perjury. The statement shall be filed in duplicate if the veteran has, or is buying under a contract, real property in more than one (1) county or in more than one (1) taxing district in the same county. The statement shall contain:

(1) a description and the assessed value of the real property, mobile home, or manufactured home;

(2) the veteran's full name and complete residence address;

(3) the record number and page where the contract or memorandum of the contract is recorded, if the individual is buying the real property, mobile home, or manufactured home on a contract that provides that the individual is to pay property taxes on the real property, mobile home, or manufactured home; and

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(4) any additional information which the department of local government finance may require.

SECTION 7. IC 6-1.1-20.9-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) An individual who desires to claim the credit provided by section 2 of this chapter must file a certified statement in duplicate, on forms prescribed by the department of local government finance, with the auditor of the county in which the homestead is located. The statement shall include the parcel number or key number of the real estate and the name of the city, town, or township in which the real estate is located. With respect to real property, the statement must be filed ~~during the twelve (12) months after May 10 of the year that precedes by two (2) years a year for which the surviving spouse wishes to obtain the credit and~~ before:

(1) May 11 of the year ~~prior to that immediately precedes~~ the first year:

(A) for which the person wishes to obtain the credit; ~~for the homestead; and~~

(B) ~~in which the taxes are due and payable under IC 6-1.1-22-9; or~~

(2) the date on which the first installment of taxes is due and payable under IC 6-1.1-22-9.5 in the year immediately preceding the first year for which the person wishes to obtain the credit.

With respect to a mobile home that is not assessed as real property or a manufactured home that is not assessed as real property, the statement must be filed during the twelve (12) months before March 2 of the first year for which the individual wishes to obtain the credit. The statement may be filed in person or by mail. If mailed, the mailing must be postmarked on or before the last day for filing. The statement applies for that first year and any succeeding year for which the credit is allowed.

(b) The certified statement referred to in subsection (a) shall contain the name of any other county and township in which the individual owns or is buying real property.

(c) If an individual who is receiving the credit provided by this chapter changes the use of the individual's real property, so that part or all of that real property no longer qualifies for the homestead credit provided by this chapter, the individual must file a certified statement with the auditor of the county, notifying the auditor of the change of use within sixty (60) days after the date of that change. An individual who changes the use of the individual's real property and fails to file

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the statement required by this subsection is liable for the amount of the credit ~~to~~ **the individual** was allowed under this chapter for that real property.

(d) An individual who receives the credit provided by section 2 of this chapter for property that is jointly held with another owner in a particular year and remains eligible for the credit in the following year is not required to file a statement to reapply for the credit following the removal of the joint owner if:

- (1) the individual is the sole owner of the property following the death of the individual's spouse;
- (2) the individual is the sole owner of the property following the death of a joint owner who was not the individual's spouse; or
- (3) the individual is awarded sole ownership of property in a divorce decree.

SECTION 8. [EFFECTIVE UPON PASSAGE] **(a) This SECTION applies only:**

- (1) to property taxes first due and payable in 2006; and**
- (2) in a county in which those taxes are due and payable under IC 6-1.1-22-9.5.**

(b) Notwithstanding:

- (1) IC 6-1.1-12-2, as amended by this act;**
- (2) IC 6-1.1-12-9;**
- (3) IC 6-1.1-12-11;**
- (4) IC 6-1.1-12-13;**
- (5) IC 6-1.1-12-14;**
- (6) IC 6-1.1-12-16;**
- (7) IC 6-1.1-12-17.4; and**
- (8) IC 6-1.1-20.9-3, as amended by this act;**

an individual who would otherwise be subject to a filing deadline of May 10, 2005, for a statement referred to in those statutes may file the statement before the date on which the first installment of taxes is due and payable in 2005 under IC 6-1.1-22-9.5.

SECTION 9. [EFFECTIVE UPON PASSAGE] **(a) For purposes of this SECTION, "benefit" means:**

- (1) a credit under IC 6-1.1-20.9; or**
- (2) a deduction under any of the following:**
 - IC 6-1.1-12-1.**
 - IC 6-1.1-12-9.**
 - IC 6-1.1-12-11.**
 - IC 6-1.1-12-13.**
 - IC 6-1.1-12-14.**
 - IC 6-1.1-12-16.**

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1 **IC 6-1.1-12-17.4.**

2 **(b) This SECTION applies to an individual who, with respect to**
 3 **a real property parcel:**

4 **(1) did not receive a benefit for property taxes first due and**
 5 **payable in 2004;**

6 **(2) meets the eligibility criteria for the benefit under a section**
 7 **referred to in subsection (a) for property taxes first due and**
 8 **payable in 2005; and**

9 **(3) did not file a timely application as required by law for the**
 10 **benefit for property taxes first due and payable in 2005.**

11 **(c) Except as provided in subsection (d), an individual may:**

12 **(1) claim a benefit referred to in subsection (a)(1) by meeting**
 13 **the filing requirements of IC 6-1.1-20.9; and**

14 **(2) claim a benefit referred to in subsection (a)(2) by meeting**
 15 **the filing requirements of IC 6-1.1-12.**

16 **(d) The filing requirements for a benefit under this SECTION**
 17 **must be met before July 1, 2005.**

18 **(e) The department of local government finance shall:**

19 **(1) prescribe forms; or**

20 **(2) issue instructions for the use of existing forms;**
 21 **for filing a claim under subsection (c).**

22 **(f) The county auditor shall determine the individual's eligibility**
 23 **for a benefit under this SECTION. If the county auditor**
 24 **determines that an individual is eligible for a benefit under this**
 25 **SECTION for a parcel, the county auditor shall:**

26 **(1) apply the benefit with respect to taxes first due and**
 27 **payable in 2005 for the parcel;**

28 **(2) in cooperation with the county treasurer:**

29 **(A) apply to the extent possible the amount by which the**
 30 **application of the benefit reduces the individual's tax**
 31 **liability for taxes first due and payable in 2005 as a credit**
 32 **against the individual's taxes that:**

33 **(i) under IC 6-1.1-22-9 are due and payable in November**
 34 **2005; or**

35 **(ii) under IC 6-1.1-22-9.5 are due after September 2005,**
 36 **in installments established by the department of local**
 37 **government finance for that year; and**

38 **(B) cause a refund to be paid to the individual of the**
 39 **amount by which the benefit exceeds the amount credited**
 40 **under clause (A); and**

41 **(3) before August 1, 2005, certify to the department of local**
 42 **government finance and the auditor of state the amount of**

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1 homestead credits allowed in the county under this SECTION
2 for property taxes first due and payable in 2005.

3 (g) Before September 1, 2005, the auditor of state shall certify
4 the amount of homestead credits referred to in subsection (f)(3) to
5 the department of state revenue. For property taxes first due and
6 payable in 2005, the department of state revenue shall allocate
7 under IC 6-1.1-21-4 from the property tax replacement fund an
8 additional amount equal to the total amount of homestead credits
9 allowed under this SECTION for property taxes first due and
10 payable in 2005. The department of state revenue shall distribute
11 the amount allocated under this subsection in equal amounts at the
12 time of the distributions under IC 6-1.1-21-10(b) in September,
13 October, and November 2005.

14 (h) A statement filed under this SECTION to obtain a benefit
15 for property taxes first due and payable in 2005 applies for that
16 year and any succeeding year for which the benefit is allowed.

17 (i) A person who is entitled under this SECTION to receive the
18 homestead credit under IC 6-1.1-20.9 is entitled for property taxes
19 first due and payable in 2005 to the deduction under IC 6-1.1-12-37
20 from the assessed value of the real property that qualifies for the
21 homestead credit.

22 SECTION 10. An emergency is declared for this act.

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